



COUNTY OF LOS ANGELES  
Internal Services Department

1100 North Eastern Avenue  
Los Angeles, California 90063



Dave Lambertson  
Director

*To enrich lives through effective and caring service.*

Telephone: (323) 267-2101  
FAX: (323) 264-7135

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To: Each Supervisor

From: Dave Lambertson  
Director

Subject: **ENERGY UPDATE REPORT**

ISD periodically updates your Board on the County's ongoing energy management activities. This report provides status of the County's involvement in current regulatory proceedings at the California Public Utilities Commission (CPUC), and updates you on ongoing litigation and energy efficiency activities.

### **Recommended Update to County Code**

In 1994, the Board of Supervisors approved the establishment of ISD's Energy Management Program, a component of which involved utility rate negotiations. Since that time, due primarily to deregulation and other initiatives, ISD's involvement in energy proceedings has greatly intensified. To reflect this involvement, ISD, in conjunction with County Counsel, will be submitting an update to the County Code which will formalize ISD's authority to participate in energy proceedings which impact the County. Currently, ISD keeps your Board apprised of important proceedings, and ISD's participation in them, through our periodic Energy Update Reports. We believe the current high level of regulatory activity will continue for several years and that it is appropriate to revise the County Code to reflect ISD's authority to represent the County and participate in these proceedings. The addition will include language that is similar to the current Code section which authorizes ISD to represent the County and participate in regulatory proceedings involving telecommunications issues. The Code revision for your review and approval will be submitted in the near future.

### **CPUC Activities**

#### Rate Related Proceedings

ISD's regulatory activities, in general, seek to keep electricity and natural gas rates for County facilities as low as possible. In support of this objective, ISD has recently participated in Southern California Edison's (SCE's) 2003 General Rate Case and



intends on participating in their recently announced 2006 Rate Case. These proceedings occur approximately every three years and typically address the utilities' needs to increase rates to meet their operating expenses. The recently concluded 2003 SCE Rate Case was described in an October 27, 2004 memorandum to your Board. The 2006 SCE Rate Case is just beginning and there are no details of the potential impact to County facilities available at this time.

The State continues to address solutions for near and mid-term electricity supply and demand problems. New rate programs intended to influence customer behavior during these periods are often proposed. ISD will continue to participate in the development of these programs in order to protect the County's financial interests and unique operating characteristics of government facilities. We described one such program being considered for this summer, Critical Peak Pricing, in a Board memorandum dated February 17, 2005. ISD is a participant in this proceeding, and intends to provide comments and testimony during the proceeding.

#### Qualifying Facilities Issues

Qualifying Facilities (QF) are customer-owned generating facilities that provide power under contract to utilities. Dramatic changes to this industry are now being considered at the CPUC. Key issues now being negotiated include how utilities should pay these customers for their power and what will be done with expiring contracts. ISD actively participates in these proceedings in order to protect the financial viability of the Pitchess Cogeneration Plant. We currently receive payments from SCE for a portion of the electricity generated by this plant.

ISD is trying to protect the current customer payment structure which provides payments from SCE based on Pitchess' actual costs of operation. To resolve a dispute between SCE and the QFs during the "energy crisis," the County signed a 5-year settlement agreement which ensured this current payment structure. This settlement agreement expires in June of 2006. The current QF proceeding will determine the Pitchess payment structure when the settlement agreement expires.

This proceeding will also determine the County's options when the long-term agreement between SCE and the County's Pitchess Plant expires in 2018. ISD is attempting to protect or develop viable alternatives for the Pitchess cogeneration plant output. One alternative would allow Pitchess' lower cost output to be used to offset SCE's higher priced energy charged to other facilities in SCE territory. This alternative is termed "wheeling" and is similar to the contractual agreement between the Los Angeles Department of Water & Power and the County's Civic Center Cogeneration Plant. ISD



will actively pursue CPUC approval of "wheeling" and other alternatives which will protect Pitchess' financial viability.

#### Energy Efficiency

A key proceeding has been ongoing at the CPUC to improve the development and administration of the State's energy efficiency programs. ISD has received \$7 million in direct program funding from the CPUC since 2002 as a result of our activity in this proceeding (\$3.3 million for years 2002-03 and \$3.7 million for years 2004-05). Program funding for years 2006-08 is forthcoming and ISD will propose an aggressive program which continues to support energy efficiency in the County's facilities.

#### Community Choice Aggregation

Another important proceeding, intended to develop the rules by which Community Choice Aggregation (CCA) will be conducted, is underway at the CPUC. This proceeding has been ongoing for nearly 2 years. CCA, authorized under AB117, allows local governments to provide power to ratepayers in their municipal boundaries. Utilities would continue to be paid for the transportation and delivery of electricity. ISD is actively participating in the proceeding in order to determine the potential benefits of CCA for County facilities and County constituents. Another important benefit of CCA is that local governments may retain control of energy efficiency funds now administered by the local utilities.

This proceeding was split into two phases. Phase 1, recently concluded, determined the cost obligations of agencies who implement a CCA program to the utilities. This phase was critical to evaluating the cost benefits of the program. ISD is in the process of developing cost evaluations for the County's own facilities as well as for County unincorporated area ratepayers. Phase 2 is ongoing and will establish the operating rules under which potential Community Choice Aggregations will function.

#### **Litigation**

The County continues to litigate its natural gas antitrust lawsuit against the Southern California Gas Company (SCG), San Diego Gas & Electric (SDG&E) and Sempra (the parent corporation of both SCG and SDG&E). This lawsuit is part of a coordinated case involving multiple parties, including the cities of Los Angeles, Long Beach, and Vernon, and class action plaintiffs. A new judge, Judge Ronald Prager, has been assigned to the case because the predecessor Judge has retired. Judge Prager has allowed additional discovery in the lawsuit and recently ordered that the trial occur in two parts.



The first trial date is scheduled for September 2, 2005. This part of the trial will determine liability of the defendants SCG, SDG&E and Sempra. The second part of the Trial, not yet scheduled, will determine the amount of the plaintiffs' damages in the lawsuit, including the County's damages.

The County is a participant in a lawsuit against the Los Angeles Department of Water & Power (DWP). Your Board has previously been updated on this lawsuit through separate updates provided by County Counsel. The case involves claims that DWP overcharged the County and other public entities for electricity in violation of California statute. Specifically, Government Code section 54999 requires that public utilities charge a governmental customer no more for the capital cost of utility service than the public customer's proportionate share based on proportionate use. This lawsuit alleges that DWP violated that requirement of Government Code.

The lawsuit is a "qui tam" action filed under the provisions of the California False Claims Act. In June of 2000, the lawsuit was filed under seal in San Francisco by a whistle blower who had become aware that DWP was overcharging government users, including the County, for the capital component of the cost of electricity. On or about February 1, 2002, the County filed a complaint in intervention in San Francisco, thereby joining in the lawsuit against DWP. The other public entity plaintiffs are Los Angeles County Metropolitan Transportation Authority, Los Angeles Unified School District, Los Angeles Community College District and the State of California. A trial date has been set in this matter for October 17, 2005 in San Bernardino Superior Court.

### **Energy Efficiency Projects**

The County, SCE, and SCG are currently implementing energy efficiency projects through a \$3.7 million grant approved by the CPUC in early 2004. On June 8, 2004 your Board authorized ISD to enter into an agreement with SCE to implement these projects. This partnership is currently retrofitting lighting in smaller County sites (libraries, fire stations) and conducting retro commissioning (building "tune-up") measures in larger County facilities with central heating and air conditioning systems.

### **SCE, SCG, County Energy Workshop**

An additional component of the \$3.7 million program authorizes ISD, SCE, and SCG to conduct a study of how to improve the administration and implementation of energy efficiency throughout the Southern California region on behalf of various local public agencies and governments. The CPUC recognizes that groups of local governments, public agency alliances and other natural collaborations could be more effective in developing and implementing energy programs. This study is ongoing and includes

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outreach to local government and public agency officials, an online survey, selected interviews, and a workshop to review the results of the study and to recommend next steps.

The workshop is scheduled for April 20, 2005 and will be held in the City of Industry, as arranged by SCE. The workshop has speaking commitments from Commissioners Dian Grueneich and Jackie Pfannenstiel of the CPUC and the California Energy Commission, respectively. Additionally, the Governor's Deputy Secretary of Natural Resources, Joseph Desmond, has also committed to speaking at the workshop. The invited keynote luncheon speaker is Assemblyperson Lloyd Levine (40<sup>th</sup>), Chair of the Assembly Utilities and Commerce Committee.

At the March 8, 2005, your Board authorized a 5 signature, Board of Supervisors letter to be sent by ISD to local government and selected public agency officials within the County urging their participation in the study and the workshop.

ISD appreciates your Board's continuing support of our efforts to best manage the County's energy business. If you have any questions about issues discussed in this Energy Update, please contact me, or have your staff contact our Energy Management Division Manager, Howard Choy, at (323) 881-3939.

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c: Chief Administrative Officer  
Each Department Head  
County Counsel